

Nguyen (Migration) [2018] AATA 5304 (19 November 2018)

DECISION RECORD

DIVISION:	Migration & Refugee Division
APPLICANT:	Mrs Thi Hong Nhung Nguyen
CASE NUMBER:	1619501
DIBP REFERENCE(S):	BCC2015/582751
MEMBER:	Justine Clarke
DATE:	19 November 2018
PLACE OF DECISION:	Melbourne
DECISION:	The Tribunal remits the application for a Partner (Temporary) (Class UK) visa, with the direction that the applicant meets the following criteria for a Subclass 820 (Partner) visa: • cl.820.211(1) of Schedule 2 to the Regulations • cl.820.221(1)(a) of Schedule 2 to the Regulations

Statement made on 19 November 2018 at 4:56pm

CATCHWORDS

MIGRATION – Partner (Temporary) (Class UK) visa – Subclass 820 (Partner) – genuine spousal relationship – marital status with Centrelink – inconsistencies between applicant and sponsor at the hearing – 19-year age difference – knowledge of each other and their lives – decision under review remitted

1.

LEGISLATION

Migration Act 1958 (Cth), ss 5F, 65

Migration Regulations 1994 (Cth), r 1.15A; Schedule 2, cls 820.211, 820.221

CASES

He v MIBP [2017] FCAFC 206

STATEMENT OF DECISION AND REASONS

APPLICATION FOR REVIEW

2. This is an application for review of a decision of a delegate of the Minister for Immigration on 17 November 2016 to refuse to grant the applicant a Partner (Temporary) (Class UK) visa under s.65 of the *Migration Act 1958* (the Act).
3. The applicant, Mrs Thi Hong Nhung Nguyen, is a 24 year old national of Vietnam.
4. On 23 February 2015, the applicant applied for the visa on the basis of her relationship with her sponsor, Mr Hong Chuong Le. At the time of this decision, Mr Le is 43 years of age.
5. At the time of application, Class UK contained only one subclass: Subclass 820 (Partner). The criteria for the grant of this visa are set out in Part 820 of Schedule 2 to the Migration Regulations 1994 (the Regulations). The primary criteria must be satisfied by at least one applicant. The primary criteria include cl.820.211(1).
6. The applicant provided the Tribunal with a copy of the primary decision. The delegate assessed the application pursuant to cl.820.211(2), finding it to be the only subclause relevant in the circumstances. The delegate found that the applicant did not meet this subclause. The delegate considered that the information and evidence, submitted in support of the application, was not sufficient to demonstrate that the applicant satisfied the definition of spouse under s.5F of the Act. The delegate refused to grant the visa on this basis.
7. On 19 November 2016, the applicant applied to the Tribunal for review of the primary decision. She was represented in relation to the review by her registered migration agent.
8. On 24 May 2018, the Tribunal wrote to the applicant requesting that she provide further evidence in support of the relationship. The applicant provided further evidence in response.
9. On 30 October 2018, the applicant appeared before the Tribunal to give evidence and present arguments. The Tribunal also received oral evidence from Mr Thanh Nugyen (the applicant's uncle) and Mr Dien Van Truong (the parties' friend). The Tribunal hearing was conducted with the assistance of an interpreter in the Vietnamese and English languages. The representative also attended the hearing.
10. At the conclusion of the hearing, the Tribunal gave the representative a copy of a non-disclosure certificate that is on the Department's file. The certificate was made on 20 December 2016 and purports to be made pursuant to s.376 of the Act. Due to the limited time remaining in the hearing, the Tribunal informed the applicant that it would write to her about this issue and about some inconsistencies observed from the oral evidence.
11. On 5 November 2018, the Tribunal wrote to the applicant, by way of her representative, about the matters raised by the non-disclosure certificate and also to invite her to comment on or respond to some adverse information pursuant to s.359A. These matters are detailed further below. On 14 November 2018, within the permitted time for responding, the applicant provided comments and evidence in response.
12. For the following reasons, the Tribunal has concluded that the matter should be remitted for reconsideration.

CONSIDERATION OF CLAIMS AND EVIDENCE

13. The primary criteria to be satisfied at the time of application are that the applicant is not the holder of a Subclass 771 (Transit) visa and that she meets one of the alternate requirements set out in cl.820.211(2), (5), (6), (7), (8) or (9): cl.820.211(1).
14. The Tribunal has reviewed the applicant's movement records which also detail her visa status at various times. The Tribunal is satisfied that the applicant was not the holder of a Subclass 771 (Transit) visa at the time of application. Therefore the Tribunal finds that cl.820.211(1)(a) is met.
15. The subclause relevant to the applicant's circumstances is cl.820.211(2). The issue for determination in this case is whether, at the time of application on 23 February 2015, the applicant was the spouse of the sponsor for the purposes of the Act.
16. The Tribunal also considers it appropriate that it make a finding about whether, at the time of this decision, the applicant continues to meet the requirements of cl.820.211(2) and thus whether she meets cl.820.221(1)(a).

Whether the parties are in a spouse or de facto relationship

17. Clauses 820.211(2)(a) and 820.221 require that, at the time the visa application was made and at the time of this decision, the applicant is the spouse or de facto partner of an Australian citizen or Australian permanent resident or an eligible New Zealand citizen. The applicant claims to be the spouse of the sponsor. The sponsor gave oral evidence that he is an Australian permanent resident and, without having evidence to the contrary, the Tribunal accepts this evidence.
18. 'Spouse' is defined in s.5F of the Act and provides that a person is the spouse of another where the two persons are in a married relationship. Persons in a married relationship must be married to each other under a marriage that is valid for the purposes of the Act, there must be a mutual commitment to a shared life as a married couple to the exclusion of all others, the relationship must be genuine and continuing, and the couple must live together, or not live separately and apart on a permanent basis: s.5F(2)(a)–(d). In forming an opinion about these matters, regard must be had to all of the circumstances of the relationship. This includes evidence of the financial and social aspects and the nature of the parties' household and their commitment to each other as set out in r.1.15A(3), which is extracted in the attachment to this decision. Each of the specific matters contained in r.1.09A(3) are effectively questions which must be answered: *He v MIBP* [2017] FCAFC 206.

Are the parties validly married?

19. If the parties are validly married, they may meet the requirements of a married relationship, but not a de facto relationship. The applicant and the sponsor married on 21 December 2014 in Albion, Victoria. A certified copy of the registered marriage certificate is on the Department's file. On the evidence, the parties were married to each other under a marriage that is valid for the purposes of the Act as required by s.5F(2)(a).

Regulation 1.15A(3) factors

20. In assessing the issues in r.1.15A(3), the Tribunal has had regard to all documents on the Department's and the Tribunal's files, as well as oral evidence given at the hearing.

21.

22. *The non-disclosure certificate*

23. As communicated to the applicant in the Tribunal's letter of 5 November 2018, the Tribunal considers that the s.376 certificate was validly made. The Tribunal considers that the information the subject of the certificate is relevant to the matters being considered in this review and engages the Tribunal's obligations under s.359A of the Act. Accordingly, the Tribunal exercised its discretion in s.376(3)(b) and disclosed the information to the applicant. The letter noted that, at the end of the hearing, the Tribunal had informed the applicant that the key issue in the Centrelink information is that, as at 9 November 2016, the sponsor had not updated his marital status with Centrelink. That is, that he was still listed as 'single' rather than 'married'. The second part of the letter invited the applicant to comment on or respond to this information pursuant to s.359A.

24. *Information put to the applicant for comment or response pursuant to s.359A*

25. The second part of the Tribunal's letter of 5 November 2018 gave the applicant clear particulars of information that, at that time, the Tribunal considered would be the reason, or a part of the reason, for affirming the decision that is under review.
26. First, the Tribunal outlined the particulars of the information in the Centrelink records that were referred to above. The Tribunal also noted that the parties had married on 21 December 2014. The letter continued as follows:

27. This information is relevant to the review because to meet the definition of 'spouse' under s.5F of the Act, you must be in a 'married relationship'. One of the four requirements for a 'married relationship', for the purposes of the Act, is that the relationship is genuine and continuing: s.5F(2)(c). In forming an opinion about this and the other matters in s.5F, the Tribunal must have regard to all the circumstances of the relationship, including the social aspects of the relationship. In *He v MIBP* [2017] FCACF 206, the Full Court of the Federal Court held that each of the specific matters contained in r.1.09A(3) are effectively questions which must be answered. Whether the persons represent themselves to other people as being married to each other is a matter listed for consideration at r.1.15A(3)(c)(i).

28. If the Tribunal relies on this information in making its decision, it may conclude that you do not meet one of the mandatory criteria for a spousal relationship within the meaning of s.5F of the Act. The consequence of this information being relied upon is that the Tribunal may find that you are not the 'spouse' of your sponsor within the meaning of s.5F of the Act, which in turn may lead it to find you do not meet cl.820.211(2)(a) and cl.820.221(1) of Schedule 2 to the Regulations. This would lead the Tribunal to affirm the decision not to grant you a Partner (Temporary) (Class UK) visa.

29. Next, the letter gave particulars of inconsistencies observed at the hearing between the applicant and the sponsor. The letter stated the following:
- When asked where he was living when he first met you in person in April 2014, the sponsor told the Tribunal that he was living in Fitzroy with Ut Ngo Nguyen. However, when the Tribunal had asked you where your husband was living at that time, you gave oral evidence that he was living in Maidstone with his older sister and her husband.
 - When asked what you were doing in terms of working or studying at the time that you met, you told the Tribunal that you were working and studying. However, the sponsor only told the Tribunal that you were studying.

- When asked for details of the people you lived with when you and your husband first lived together in Richmond, you told the Tribunal that you had lived together with your uncle and your uncle's son. However, the sponsor only told the Tribunal that you were both living with your uncle.
- When asked about who does the shopping, cooking and cleaning both now and in the past, you said that you shared these chores. However, your husband told the Tribunal that you did these chores.

To meet the definition of 'spouse' under s.5F of the Act, you must be in a 'married relationship'. One of the four requirements for a 'married relationship', for the purposes of the Act, is that the relationship is genuine and continuing: s.5F(2)(c). The matters upon which you and your husband appear to be inconsistent are matters about which parties in a genuine and continuing spousal relationship would be expected to be consistent. This information is relevant to the review because it may cause the Tribunal to impugn your and the sponsor's general credibility, such that the Tribunal does not accept your claims to be spouses.

30. If the Tribunal relies on this information in making its decision, it may conclude that you do not meet one of the mandatory criteria for a spousal relationship within the meaning of s.5F of the Act. The consequence of this information being relied upon is that the Tribunal may find that you are not the 'spouse' of your sponsor within the meaning of s.5F of the Act, which in turn may lead it to find you do not meet cl.820.211(2)(a) and cl.820.221(1) of Schedule 2 to the Regulations. This would lead the Tribunal to affirm the decision not to grant you a Partner (Temporary) (Class UK) visa.

31. The Tribunal invited the applicant to comment on or respond to the information by 19 November 2018 or to seek an extension of time by that date.

32. *The applicant's response to the information*

33. On 14 November 2018, the applicant submitted her response. She submitted signed statements made by both herself and the sponsor addressing each of the particulars as well some documentary evidence in support of their claims that the sponsor had attended a Centrelink office after the marriage as he was receiving a Centrelink payment at that time and that, prior to the marriage, the sponsor's address had been in Maidstone. The parties claimed that the inconsistencies in the answers to the Tribunal's questions were due to the sponsor's misunderstanding of the questions.

34. The Tribunal finds that the explanations provided are plausible and the Tribunal accepts the evidence submitted. Accordingly, the Tribunal does not consider that the sponsor's failure to provide written notice to Centrelink of his marital status or the inconsistencies in the oral evidence constitute a reason or a part of the reason to affirm the decision under review.

35. *The financial aspects of the relationship*

36. Any joint ownership of real estate or other major assets, any joint liabilities, the extent of any pooling of financial resources, whether one person in the relationship owes any legal obligation in respect of the other and the basis of any sharing of day-to-day household expenses are relevant factors to consider when assessing the financial aspects of the relationship.
37. The applicant's signed written submissions of 4 June 2018 addressed the delegate's concerns about the financial aspects of the relationship by stating the following:

38. After we got married, my husband and I pooled our financial resources together. We had a joint bank account with Commonwealth Bank. We used this account for our daily expenses and we also saved our money in this account.

39. Until now, we have continued to pool our financial resources together.

40. After we got married, both of us were working to contribute to our family budget. However, I have stopped working since December 2016 after I lost my work right. My husband has supported me financially since then.

41. Attached herewith is the evidence of our financial sharing including bank statements, bills and receipts.

42. At the hearing, both the applicant and the sponsor gave consistent oral evidence about the financial aspects of their relationship, including detailed evidence about the sponsor's employment and the applicant's former employment. They both told the Tribunal that the sponsor was supporting the applicant financially and that their joint bank account with the Commonwealth Bank was their main joint asset. Both parties also gave consistent oral evidence about the location of the branch where their joint bank account is held and they both said that they had opened it after marrying because they had wanted to pool their finances and share their expenses. They both noted that the sponsor's salary was deposited into the account. The applicant said that, when she had been working, her salary had also been deposited into the account. She said that the account was used for their day-to-day household expenses, including the payment of bills. The Tribunal notes the documentary evidence that was submitted to the Tribunal corroborating these claims. For example, correspondence from the Commonwealth Bank confirming that the joint bank account was opened on 13 February 2015; transaction listings for the joint bank account for the period 3 September 2016 to 14 October 2018; jointly addressed electricity bills for various dates in 2016, 2017 and 2018; and jointly addressed mobile phone bills for two mobile phone numbers for various dates in 2018.

43. There is no evidence before the Tribunal that the applicant and the sponsor jointly own real estate or other major assets or that there are any joint liabilities such as joint loans or credit cards.

44. The Tribunal notes the certified copy of the sponsor's will dated 19 November 2016 which is on the Tribunal's file which suggests that there is a legal obligation, upon the death of the sponsor, for the bulk of his estate to be paid or transferred to the applicant. The Tribunal also notes the printouts from the sponsor's superannuation account on 24 November 2016 and 15 October 2018 that evidences that he has nominated the applicant as sole beneficiary of his fund in the event of his death.

45. The Tribunal also notes that the parties have been open in offering the Tribunal information about their finances, such as by providing copies of the sponsor's payslips, tax returns and notices of assessment for various years as well as details pertaining to the mortgage in the sponsor's name.

46. The Tribunal gives weight to the evidence of the financial aspects of the relationship.

47. *The nature of the household*

48. Any joint responsibility for the care and support of children, the living arrangements of the persons and any sharing of the responsibility for housework are relevant matters to be considered when assessing the nature of the household.

49. The applicant's signed written submissions of 4 June 2018 also addressed the delegate's concerns about the nature of the household by stating the following:

50. Since my husband and I committed ourselves to a long-term relationship to the exclusion of all others, we have lived together and shared our responsibility for our housework. We had lived in our rented flat in Footscray [exact address omitted in these reasons] until my husband bought a small house in the same area in September 2016 [exact address omitted in these reasons]. We have lived here together to date. Our house was registered in my husband's name at the time of purchase because I was not a permanent resident. If the property was registered in both of our names, then we had to pay more tax, and we could not afford it.

51. Later the in the submissions the applicant stated:

52. We got married on 21 December 2014 and we have lived together as a married couple since then. At that time, I was living with my uncle at his home in Richmond. After we got married, my husband moved in to live with me at my uncle's home in Richmond because we had not had a fixed place to live. In February 2015, we were able to rent our flat in Footscray [exact address omitted in these reasons]. As such, we could only show the evidence of our cohabitation as from February 2015.

53. There is no evidence before the Tribunal that the parties have any children, either together or from others.
54. At the hearing, both the applicant and the sponsor gave consistent oral evidence about their living arrangements. They both told the Tribunal that they had lived together since their marriage. They both gave consistent oral evidence that they lived first with the applicant's uncle in Richmond, before the two of them moved to their own rented property in Footscray and then subsequently into their own home in Footscray. They both told the Tribunal that they had not lived apart for any substantial period. The Tribunal notes that there is some evidence to corroborate some of these claims. For example, the Tribunal notes and gives weight to Mr Nguyen's oral evidence at the hearing that the parties had lived with him for a short period at around the end of 2014. The Tribunal also notes and gives some weight to the numerous documents that were submitted to both the Department and the Tribunal which were addressed to the parties either jointly or separately at the two properties in Footscray (including from Australian Government agencies) as well as official documents relating to those properties. For example, the parties submitted signed rental payment receipts, documents from the Residential Tenancies Bond Authority and the relevant leasing real estate agents in respect of the rented property in Footscray and rates notices in respect of the Footscray property that the sponsor purchased.
55. The Tribunal also notes that, at the hearing, when asked, both parties drew almost identical floorplans for their house in Footscray that they claim to be living at together.
56. With respect to the responsibility for housework, the Tribunal accepts the parties' claim that they share their chores at present and that they had done so in the past as well. The Tribunal accepts the sponsor's statement that:

57. ... the amount of work is different now, compared to the past. Previously, both of us were working, so we shared most of [the] housework together. Since my wife was unemployed following the loss of her work right, she have done more chores such as cooking and cleaning. Nevertheless, I have helped her with things such as washing the dishes.

58. As the tasks that I have helped my wife are just small compared to all the chores around the house that she ha[s] done, I told the Tribunal that she ha[s] done them.

59. The Tribunal gives weight to the evidence of the nature of the household.

60. *The social aspects of the relationship*

61. Whether the persons represent themselves to other people as being married to each other, the opinion of the persons' friends and acquaintances about the nature of the relationship and any basis on which the persons plan and undertake joint social activities are relevant matters to be considered in determining the social aspects of the relationship.

62. With respect to the delegate's concerns about the social aspects of the relationship, the applicant's signed written submissions of 4 June 2018 made the following comments.

63. I have an uncle, an aunt and two cousins in Australia and we meet them on a regular basis. My husband has two sisters here but we rarely get in contact with them because they have not supported our relationship.

64. We have a number of friends and we meet them regularly. On weekends, we often invite our friends to come over to our place and we cook and enjoy meals together. Sometimes, we go out to visit our friends at the places. We have presented ourselves to all people around us as a married couple and they have all supported us. We spend time with my relatives and our friends whenever we have a chance and they are well aware of our relationship.

65. Evidence of this can be seen in the attached photos.

66. From the evidence before it, the Tribunal is satisfied that the applicant and the sponsor have represented themselves to other people as being married to each other.

67. The Tribunal has also considered the opinion of the persons' friends and acquaintances about the nature of the relationship. While the Tribunal considers that the Form 888 statutory declarations that are on the Department's file contain high level statements, nevertheless the Tribunal gives them some weight. As noted earlier, the Tribunal also heard oral evidence from Mr Nguyen and Mr Truong. They both told the Tribunal that they were of the opinion that the relationship between the applicant and the sponsor is a genuine and continuing one and were able to outline their reasons for holding that view. The Tribunal gives weight to the two witnesses' evidence.

68. With respect to joint social activities, at the hearing, both parties gave consistent oral evidence that they socialise together at friends' parties. The applicant also noted that they liked to go shopping together and that they also enjoyed dinners with friends; either at their friends' houses or out at restaurants. The sponsor noted that he does not have a lot of spare time (a point also noted by Mr Nguyen), but he said that when he does have time that he likes to go out for breakfast with his wife and his friends. When the Tribunal asked the parties about the last film that they had seen together at the cinema, they gave consistent answers: they attended 'Fast and Furious 8' at the cinema in Sunshine. They were also both able to detail holidays that they had taken together. Both noted their trip to the Gold Coast earlier in the year. The applicant also mentioned their trip together to Sydney in 2017 and the sponsor also noted that their most recent trip had been to Phillip Island.

69. The Tribunal finds that there is social and public recognition of the relationship.

70. The Tribunal gives weight to the evidence of the social aspects of the relationship.

71. *The nature of the person's commitment to each other*

72. The duration of the relationship, the length of time during which the persons have lived together, the degree of companionship and emotional support that the persons draw from each other, and whether the persons see their relationship as long-term are all aspects to be considered in determining the nature of the person's commitment to each other.

73. The consistent evidence of the parties is that they have been in an exclusive and committed relationship since July 2014, having first met at the applicant's aunt's home on 25 April 2014 and having developed a friendship after that time. The Tribunal notes the relationship statement on the Department's file. The applicant's and the sponsor's evidence about the inception and development of their relationship—both in their statements and in their oral evidence at the hearing—was detailed and consistent. The Tribunal gives weight to the fact that the parties have been married and living together for almost four years.

74. The Tribunal has taken into account the couple's respective ages (noting that it questioned them each about whether the 19 year age difference caused them any problems), backgrounds and life experiences, and accepts that neither party was in a relationship with any third party at the time of application, or that this is the case at the time of this decision.

75. The Tribunal questioned both parties about their knowledge of each other and their lives and is satisfied that they both demonstrated knowledge of each other's lives suggestive of a couple in a genuine and ongoing spousal relationship.

76. Both parties told the Tribunal that they envisage their relationship being for the long term and were able to give reasons as to why they each held that view. They both said that they planned to have children together and that it was important for them to hold a wedding celebration in Vietnam so that their marriage could be formally recognised by both families.

77. Having had the advantage of hearing the applicant's and the sponsor's oral evidence in person and having reviewed the documentary evidence, the Tribunal accepts the parties' oral evidence at the hearing and the contentions made in the written submissions. Having considered all of the evidence cumulatively, the Tribunal is satisfied that the parties have demonstrated, and continue to demonstrate, a level of commitment to one another and to their spousal relationship as contemplated in the Regulations.

78. The Tribunal gives weight to the evidence of this factor.

79. **CONCLUSION**

80. As stated above, the Tribunal is satisfied that the parties are validly married, as required by s.5F(2)(a) of the Act.

81. After considering all the evidence before it and for the reasons given with respect to the r.1.15A(3) matters, the Tribunal is satisfied that, both at the time of application on 23 February 2015 and at the time of this decision, the applicant and the sponsor:

- had and have a mutual commitment to a shared life as husband and wife to the exclusion of all others, as required by s.5F(2)(b) of the Act;
- had and have a genuine and continuing relationship, as required by s.5F(2)(c) of the Act; and

- lived and live together as required by s.5F(2)(d)(i) of the Act.
- 82. Given these findings, the Tribunal is satisfied that, at the time the visa application was made and at the time of this decision, the parties were and are in a spousal relationship.
- 83. However, the spouse requirement in cl.820.211(2)(a)(i) is not the only requirement in cl.820.211(2) which must be satisfied at the time of application. The sponsorship requirements in cl.820.211(2)(a)(ii) and cl.820.211(2)(c) must also be satisfied, and, if the applicant was not the holder of a substantive visa at the time of application, then the requirements in cl.820.211(2)(d) must also be satisfied.
- 84. The Tribunal has reviewed the Forms 47SP and 40SP that are on the Department's file. On the basis of this documentary evidence, the Tribunal is satisfied that the applicant is sponsored by the sponsor and that cl.820.211(2)(c)(i) is met. There is no information before the Tribunal to suggest that the circumstances outlined in cl.820.211(2B) apply so the Tribunal finds that the sponsor is not prohibited by that subclause from being a sponsoring partner. Accordingly, the Tribunal finds that cl.820.211(2)(a)(ii) is met.
- 85. The applicant's movement records evidence her as having being granted a Subclass 573 Student visa on 17 April 2013. She held this substantive visa upon applying for the Partner (Temporary) (Class UK) Subclass 820 visa on 23 February 2015. As the applicant held a substantive visa at the time of application, the further requirements in cl.820.211(2)(d) need not be met.
- 86. The Tribunal finds that the applicant meets the time of application requirements in cl.820.211(2). As the applicant meets the requirements of cl.820.211(2), she also meets cl.820.211(1)(b). As both cl.820.211(1)(a) and (b) are met, cl.820.211(1) is met.
- 87. With respect to criteria to be satisfied at the time of decision, the Tribunal finds that the applicant continues to meet the requirements of cl.820.211(2) and so meets cl.820.221(1)(a).
- 88. Given the findings above, the appropriate course is to remit the application for the visa to the Minister to consider the remaining criteria for a Subclass 820 visa.

DECISION

- 89. The Tribunal remits the application for a Partner (Temporary) (Class UK) visa, with the direction that the applicant meets the following criteria for a Subclass 820 (Partner) visa:
 - cl.820.211(1) of Schedule 2 to the Regulations
 - cl.820.221(1)(a) of Schedule 2 to the Regulations

90.

Justine Clarke
Member

ATTACHMENT - Extract from Migration Regulations 1994

1.15A Spouse

- (1) For subsection 5F (3) of the Act, this regulation sets out arrangements for the purpose of determining whether 1 or more of the conditions in paragraphs 5F (2) (a), (b), (c) and (d) of the Act exist.
- (2) If the Minister is considering an application for:
 - (a) a Partner (Migrant) (Class BC) visa; or
 - (b) a Partner (Provisional) (Class UF) visa; or
 - (c) a Partner (Residence) (Class BS) visa; or
 - (d) a Partner (Temporary) (Class UK) visa;

the Minister must consider all of the circumstances of the relationship, including the matters set out in subregulation (3).

- (3) The matters for subregulation (2) are:
 - (a) the financial aspects of the relationship, including:
 - (i) any joint ownership of real estate or other major assets; and
 - (ii) any joint liabilities; and
 - (iii) the extent of any pooling of financial resources, especially in relation to major financial commitments; and
 - (iv) whether one person in the relationship owes any legal obligation in respect of the other; and
 - (v) the basis of any sharing of day to day household expenses; and
 - (b) the nature of the household, including:
 - (i) any joint responsibility for the care and support of children; and
 - (ii) the living arrangements of the persons; and
 - (iii) any sharing of the responsibility for housework; and
 - (c) the social aspects of the relationship, including:
 - (i) whether the persons represent themselves to other people as being married to each other; and
 - (ii) the opinion of the persons' friends and acquaintances about the nature of the relationship; and
 - (iii) any basis on which the persons plan and undertake joint social activities; and
 - (d) the nature of the persons' commitment to each other, including:
 - (i) the duration of the relationship; and
 - (ii) the length of time during which the persons have lived together; and
 - (iii) the degree of companionship and emotional support that the persons draw from each other; and
 - (iv) whether the persons see the relationship as a long term one.
- (4) If the Minister is considering an application for a visa of a class other than a class mentioned in subregulation (2), the Minister may consider any of the circumstances mentioned in subregulation (3).